

**CLAIM AMENDMENTS**

245. (currently amended) A nucleic acid construct which comprises a nucleic acid sequence which encodes a non-eukaryotic polymerase, said sequence encoding said non-eukaryotic polymerase further comprising comprising an intron, non-native to said polymerase, wherein said intron sequence is within the sequence encoding said polymerase and wherein said polymerase is (a) incapable of expression in an incompatible cell, whereas said incompatibility is due to failure of expression of said polymerase due to the presence of said non-native intron expressed solely in a eukaryotic cell and said polymerase and (b) is capable of producing more than one copy of a nucleic acid sequence from said construct when introduced into a eukaryotic compatible cell.

246. (previously presented) The construct of claim 245, further comprising a recognition site for said polymerase.

247. (previously presented) The construct of claim 246, wherein said recognition site is complementary to a primer for said polymerase.

248. (previously presented) The construct of claim 247, wherein said primer comprises transfer RNA (tRNA).

249. (previously presented) The construct of claim 245, wherein said non-eukaryotic polymerase is selected from the group consisting of RNA polymerase, DNA polymerase, reverse transcriptase, and a combination thereof.

250. (previously presented) The construct of claim 249, wherein said RNA polymerase is a bacteriophage RNA polymerase.

251. (previously presented) The construct of claim 250, wherein said bacteriophage RNA polymerase is selected from the group consisting of T3, T7 and SP6, and a combination thereof.

252. (previously presented) The construct of claim 248, wherein said recognition site is a promoter for said RNA polymerase.

253. (previously presented) The construct of claim 245, wherein said nucleic acid produced from said construct is selected from the group consisting of DNA, RNA, a DNA-RNA hybrid and a DNA-RNA chimera, or a combination of the foregoing.

254. (previously presented) The construct of claim 253, wherein said DNA or RNA comprises sense or antisense, or both.

255. (currently amended) A nucleic acid construct which produces a gene product comprising an intron non-native to said gene product when introduced into an non-eukaryotic-incompatible cell, wherein (a) said intron sequence is within the sequence encoding said gene product; (b) said incompatibility is due to failure of expression of said gene product due to the presence of said intron; and produces a non-eukaryotic gene product comprising a eukaryotic intron, which when in a eukaryotic cell, said intron is removed during processing and wherein (c) said gene product or protein expressed from a said gene product would be toxic specifically to a non-eukaryotic an incompatible cell in the absence of said non-native intron.

Claims 256 and 257 (canceled)

258. (previously presented) The construct of claim 255, wherein said gene product is single stranded.

Claims 259-261 (canceled)

262. (new) A nucleic acid construct which when introduced into an incompatible cell produces a gene product comprising an intron non-native to said gene product, wherein said intron sequence is inserted within the sequence encoding said gene product and

immediately 3' to (C/A)AG and said incompatibility is due to failure of expression of said gene product due to the presence of said intron, which when in a compatible cell, said intron sequence is substantially removed during processing.